

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 421 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE K.G.BALAKRISHNAN

and

MR.JUSTICE J.M.PANCHAL

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHANDRAKANT B SHAH

Versus

STATE OF GUJARAT

Appearance:

MR ARUN H MEHTA for Petitioner

MR MA BUKHARI for Respondents No. 1, 2

CORAM : MR.JUSTICE K.G.BALAKRISHNAN and

MR.JUSTICE J.M.PANCHAL

Date of decision: 12/02/98

ORAL JUDGEMENT

(Per : Balakrishnan,J.): -

The petitioner is owner and in possession of 16
acres of land situate in village Vilanpur, Taluka :

Mahuva in Surat District. According to the petitioner, this is highly fertile land, situated by the side of river Olan. Some portion of the petitioner's land was required for construction of an approach road leading to a newly constructed bridge. The petitioner contends that the authorities have taken possession of the land without there being any proceedings under the Land Acquisition Act. Therefore, he filed Special Civil Application contending that the respondents shall be restrained from taking possession of the land. A reply affidavit has been filed by the Deputy Engineer working in the Office of Executive Engineer of P.W.D. of Surat District, wherein it is stated that the District Panchayat wanted to construct a bridge across Olan Khadi and the construction of the bridge is going on. It is stated that the petitioner handed over possession of portion of his land by private negotiation on the basis of Annexure-I produced along with reply affidavit. It is also stated that there was shifting of site of construction of bridge and, therefore, the petitioner's land admeasuring 5410 sq.mts. was to be cut off from his main land. It is specifically stated that no section 4 notification was issued under the provisions of the Land Acquisition Act and no inquiry was also conducted under section 5A of the Act.

2. We heard the petitioner's Counsel and the Assistant Government Pleader. The Counsel for the petitioner submitted that the petitioner has not given full instructions regarding the present state of affairs and it is not known as to what has happened after filing of the Special Civil Application. Learned A.G.P. stated that inspite of repeated efforts, no detailed instructions could be received from the concerned officer regarding present condition. It is most likely that the bridge must have been constructed by this time. There was no proceeding taken under the Land Acquisition Act. When the matter came-up before this Court earlier, an interim order was passed wherein it was stated that it would be open to the Collector to make an order authorising the District Inspector of Land Records to carry out joint measurement after keeping the applicant or his subordinates present and to carry out preliminary survey and to take all necessary steps as contemplated under section 3A of the Land Acquisition Act.

3. It is not known whether any steps have been taken in this matter. We make it clear that it would be open to the authorities to take proceedings under the Land Acquisition Act at the earliest and pay compensation payable to the petitioner at the earliest and if no steps

have been taken by the authorities, possession shall be restored to the petitioner. If any proceedings under the Land Acquisition Act have already been taken, it shall be completed at the earliest, preferably within a period of one year.

Rule is discharged accordingly. No order as to costs.

patel